

ORIGINAL
OPEN MEETING AGENDA ITEM



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BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

2013 OCT -4 P 1:24

AZ CORP COMMISSION
DOCKET CONTROL

In the matter of:

DOCKET NO. S-20867A-12-0459

TRI-CORE COMPANIES, LLC an Arizona
limited liability company,

TRI-CORE MEXICO LAND DEVELOPMENT,
LLC, an Arizona limited liability company,

TRI-CORE BUSINESS DEVELOPMENT, LLC,
an Arizona limited liability company,

ERC COMPACTORS, LLC, an Arizona limited
liability company,

ERC INVESTMENTS, LLC, an Arizona limited
liability company,

C&D CONSTRUCTION SERVICES, INC. a
Nevada corporation,

PANGAEA INVESTMENT GROUP, LLC, an
Arizona limited liability company, d/b/a Arizona
Investment Center,

JASON TODD MOGLER, an Arizona resident,

BRIAN N. BUCKLEY and CHERYL BARRETT
BUCKLEY, husband and wife,

CASIMER POLANCHEK, an Arizona resident,

NICOLE KORDOSKY, an Arizona resident,

Respondents.

Arizona Corporation Commission

DOCKETED

OCT 04 2013

DOCKETED BY

SIXTH
PROCEDURAL ORDER
(Authorizes Telephonic
Testimony and Continues a
Portion of the Hearing)

BY THE COMMISSION:

On November 8, 2012, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing ("Notice") against Tri-Core Companies, LLC, ("Tri-Core"); Tri-Core Mexico Land Development, LLC ("TC Mexico"); Tri-Core

1 Business Development, LLC ("TC Business"); ERC Compactors, LLC ("ERC Compactors"); ERC
2 Investments, LLC ("ERC Investments"); C&D Construction Services, Inc. ("C&D"); Pangaea
3 Investment Group, LLC ("Pangaea"), d/b/a Arizona Investment Center ("AIC"); Jason Todd Mogler;
4 Brian N. Buckley and Cheryl Barrett Buckley, husband and wife; Cassimere Panache; and Nicole
5 Kordosky (collectively "Respondents"). In the Notice, the Division alleged multiple violations of the
6 Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of notes.

7 The Respondents were duly served with a copy of the Notice.

8 On November 26, 2012, a request for hearing in this matter was filed on behalf of C&D.

9 On November 30, 2012, Respondents Tri-Core, TC Business, ERC Compactors, ERC
10 Investments, Jason Todd Mogler, Brian N. Buckley and Cheryl Barrett Buckley filed requests for
11 hearing.

12 On December 10, 2012, by Procedural Order, a pre-hearing conference was scheduled on
13 January 15, 2013.

14 On January 15, 2013, at the pre-hearing conference, Respondents Tri-Core, TC Business,
15 ERC Compactors, ERC Investments, and Jason Mogler appeared through counsel. Respondents
16 Brian and Cheryl Buckley appeared on their own behalf. The Division also appeared through
17 counsel. Although the parties who requested a hearing were discussing a possible resolution of the
18 proceeding, the Division requested a status conference be scheduled to determine if a hearing should
19 be scheduled in the event settlement did not occur.

20 On January 16, 2013, by Procedural Order, a status conference was scheduled on March 20,
21 2013.

22 On January 29, 2013, Respondent Nicole Kordosky filed a request for hearing.

23 On January 31, 2013, by Procedural Order, Respondent Nicole Kordosky's name was added
24 to the service list and she was apprised of the status conference scheduled for March 20, 2013.

25 On March 20, 2013, at the status conference, the Division appeared through counsel,
26 Respondents Tri-Core, TC Business, ERC Compactors, ERC Investments and Jason Mogler appeared
27 through counsel, Respondent C&D appeared through counsel, and Respondents Brian Buckley and
28 Nicole Kordosky appeared on their own behalf. Mrs. Buckley did not appear. The Division's

1 counsel indicated that while discussions to resolve the issues raised by the Notice were ongoing, a
2 hearing should be scheduled in the fall to avoid scheduling conflicts in a lengthy proceeding because
3 there would be approximately 12 Division witnesses and voluminous exhibits. Additionally, one of
4 the attorneys who represents the Respondents indicated that he would call a like number of witnesses.

5 On March 21, 2013, by Procedural Order, a hearing was scheduled to commence on October
6 7, 2013 and last over a number of weeks.

7 On April 4, 2013, the Division filed a Motion to Continue ("Motion") the hearing due to the
8 unavailability of a key witness during the scheduled hearing. The Division requested that the
9 proceeding be continued to October 21, 2013, and that the remaining dates of the hearing also be
10 rescheduled. The Division further indicated that counsel for the Respondents who were represented
11 as well as the pro per Respondents in the proceeding had been contacted concerning the Division's
12 Motion and that they had no objections to the Motion.

13 On April 24, 2013, by Procedural Order, the Division's Motion was granted and the hearing
14 was continued to October 21, 2013.

15 On September 11, 2013, the Division filed a Motion to Allow Telephonic testimony of
16 approximately six witnesses who mostly reside out of state. There have been no objections to this
17 motion.

18 On September 20, 2013, the Division filed a Stipulation to Partially Continue the Hearing
19 Dates because counsel for the majority of the Respondents recently informed the Division that he has
20 a conflict with a criminal matter in which he is counsel of record and has been set for an eight to ten
21 week trial which is to commence on November 5, 2013. The Division further stated that the judge in
22 that proceeding has refused to continue the criminal trial in deference to the Commission's
23 proceeding. Additionally, the Division stated that the parties have agreed to proceed with the first
24 two weeks of hearing scheduled in October 2013 and to continue the remaining three weeks
25 scheduled in November 2013 to February or March 2014 with the majority of the Respondents
26 represented by the affected counsel presenting their case in chief at that time.

27 Accordingly, telephonic testimony should be permitted in the proceeding. Further, a portion
28 of the proceeding should be continued as agreed by the parties.

1 IT IS THEREFORE ORDERED that the Division's Motion to Allow Telephonic Testimony
2 is hereby granted.

3 IT IS FURTHER ORDERED that the **hearing** shall commence on **October 21, 2013, at**
4 **10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2,
5 Phoenix, Arizona, as previously ordered.

6 IT IS FURTHER ORDERED that the parties shall reserve **October 22, 23, 24, 28, 29, 30 and**
7 **31, 2013, for additional days of hearing**, as previously ordered.

8 IT IS FURTHER ORDERED that all dates scheduled for hearing in November 2013 shall be
9 continued to **February 3, 4, 5, 6, 10, 11, 12, 13, 18, 19, and 20, 2014.**

10 IT IS FURTHER ORDERED that **if the parties reach a resolution of the issues raised in**
11 **the Notice prior to the hearing, the Division shall file a Motion to Vacate the proceeding.**

12 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
13 Communications) is in effect and shall remain in effect until the Commission's Decision in this
14 matter is final and non-appealable.

15 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
16 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
17 *pro hac vice*.

18 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
19 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
20 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
21 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
22 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
23 Administrative Law Judge or the Commission.

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1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 17th day of October, 2013.

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8 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 4th day of October, 2013 to:

11 Dale B. Rycraft, Jr.
12 THE RYCRAFT LAW FIRM PLLC
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Attorney for C&D Construction Services, Inc.

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17 and Jason Todd Mogler

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9 By:

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11 Tammy Velarde
12 Assistant to Marc E. Stern
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